

Hakowski, Denise

From: Patnode, Kathleen <kathleen_patnode@fws.gov>
Sent: Wednesday, May 20, 2015 5:20 PM
To: Hakowski, Denise
Cc: Clayton, Janet L
Subject: Re:

Denise-

I contacted Janet Clayton, the WV DNR mussel expert. It does not appear that WV DEP consulted with DNR regarding this SSC. Janet has significant concerns about the lack of survey data within the mixing zone and the presence of mussels classified as "at risk" by the state. With the lack of surveys, it is impossible for me to conclude that federally listed species will not be at risk from this SSC. Janet contends, and I concur, that prior to issuing a WER, mussel surveys should be performed for the mixing zone to determine which at risk or listed species are present.

I have not dealt with a WER proposal before, but I assume that the state WQS is multiplied by the WER to generate site specific CMC and CCC values. Wang et al. 2007 (http://fishwild.vt.edu/mussel/PDFfiles/chronic_toxicity.pdf) demonstrated that the EPA chronic criterion for copper was not protective of juvenile mussels exposed for 28 days. It seems irresponsible for a site-specific WQS to be more lenient when the existing value may already be causing toxicity.

I know that your responsibility is limited to federally listed species. However, Janet should have been consulted since she knows what species are present in the river, particularly those at risk. Is WV DNR obligated to consult sister agencies that are responsible for natural resource protection? If not, can you provide contact information for the WV DEP representative so that Janet can provide him/her with feedback?

Thanks,

Kathy

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On Fri, May 15, 2015 at 10:45 AM, Hakowski, Denise <Hakowski.Denise@epa.gov> wrote:

Hi Kathy,

West Virginia will soon be submitting modifications to their WQS regulation. The one that has the potential to impact aquatic life is a site specific criteria (SSC) for copper (based on a Water Effects Ratio). This SSC appears in the WQS regulation as follows:

7.2.d.19. Kanawha River Zone 1 - Main Stem

7.2.d.19.2. Pursuant to 46 CSR 6, a Copper Water Effect Ratio (WER) of 5.62 shall be applied to The Sanitary Board of the City of Charleston, West Virginia wastewater treatment plant discharge to Kanawha River, Zone 1.

Attached is the rationale for the change, including a map of the discharge location. Can you let me know if there are any threatened or endangered species in this area?

Thank you,

Denise